to stay and receive them at this port. The furnishing of the logs in each instance was the acceptance of an offer to carry those very logs. Until they were ready for loading the defendant was not bound to receive them—when they were ready he was bound. While the court in the principal case followed the precedent established by *American Cotton Oil Co. v. Kirk* (1895) 68 Fed. 791, and *Walker Mfg. Co. v. Swift & Co.* (1912) 200 Fed. 529, it is believed that the foregoing discussion presents a view more in accord with sound reasoning. In addition, authorities are not wanting to the effect that the defendant's offer became irrevocable after the offeree had performed some of the contemplated acts in reliance thereon. *Los Angeles Traction Co. v. Wilshire* (1902) 135 Cal. 654; *Zwolanek v. Baker Mfg. Co.* (1912) 150 Wis. 517. See Professor Arthur L. Corbin, Offer and Acceptance (1916) 26 YALE LAW JOURNAL, 169, 191.

C. M.

DOMICILE—LIABILITY TO PAY NEW YORK TRANSFER TAX.—IN RE TRANSFER TAX ON ESTATE OF HETTY H. R. GREEN (1917) 57 N. Y. L. J. 213.—Mrs. Hetty H. R. Green was born in Massachusetts and married a man who was domiciled in Vermont. During their married life the matrimonial domicile continued to be in Vermont; their only "home," or permanent abiding place, being the "Tucker House" in Bellows Falls, Vermont. After the death of her husband in 1902, and until her death in 1916, Mrs. Green spent the greater part of her time away from Vermont, returning to the "Tucker House" for six weeks during each summer, except the last. While she conducted her large business interests in New York she lived part of the time in lodging-houses or hotels in New York City, or at apartments or lodging houses in Hoboken, New Jersey. *Held,* that the last residence of Mrs. Green was not within the state of New York for the purposes of the Transfer Tax Law.

While the legal intendment of the terms "residence" and "domicile" is not generally the same, the New York Transfer Tax Law has been construed to make them convertible terms. *In re Martin's Estate* (1916) 158 N. Y. S. 915; *In re Norton* (1916) 159 N. Y. S. 619. For a similar construction of the Ohio Statute, cf. *Rockfeller v. O'Brien* (1915) 224 Fed. 54. Domicile has been regarded in the generic use of the term as the *relation* which the law creates between an individual and a particular locality or country. *Bell v. Kennedy* (1868) L. R. 1 H. L. (Sc.) 307. Domicile is said to determine the *status* in all common-law countries. Beale, *Conflict of Laws,* Pt. 1, p. 174. A more satisfactory, although not complete definition, holds that the domicile of a person is where he has his true fixed, permanent home and principal establishment, and to which place he has, whenever he is absent, the intention of returning. Story, *Conflict of Laws,* sec. 44; Woolsey, *Introd. to International Law,* sec. 67. The domicile, or legal residence, of a person when it is acquired through the choice of the individual involves a miscellaneous aggregate of facts concerning his relation to a place. Professor Hohfeld (1913) 23 YALE LAW JOURNAL, 16, 28. For a variety of purposes, including succession, every person must have a domicile and but one; and this domicile of origin will be presumed to continue until a new one is obtained. *Borland*

v. Boston (1882) 132 Mass. 89; *Dupuy v. Wurtz* (1873) 53 N. Y. 556. As generally stated, in order to acquire a new domicile there must be a union of intention and residence, *animo et facto*. *In re Newcomb* (1908) 192 N. Y. 238; Westlake, *Conflict of Laws* (5th ed.) p. 363. A new domicile is not acquired until there is not only an abandonment of the old residence, but a fixed intention to establish a new residence, followed by execution of the intent. *Boyd's Exr. v. Commonwealth* (1912) 149 Ky. 764; *De la Montanya v. De la Montanya* (1896) 112 Cal. 101. The domicile of origin or the previous domicile will prevail unless there has been effected that aggregate of physical and mental facts which are necessary to constitute a change of domicile. *Gilman v. Gilman* (1863) 52 Me. 165. The principal case, as many previous cases, involved fundamentally the problem of an accurate analysis of that complex aggregate of fact and intention, i. e., physical facts and mental facts, which go to make up the legal concept of domicile. *Abington v. North Bridgewater* (1840) 23 Pick. (Mass.) 70; *Mather v. Cunningham* (1909) 105 Me. 326. A woman through the additional fact of marriage, acquires the domicile of her husband. *Barber v. Barber* (1858) 21 How. (U. S.) 582; Jacobs, *Law of Domicile*, sec. 222. The matrimonial domicile which was acquired in Vermont by Mrs. Green, and which continued to be in Vermont upon the death of her husband, does not appear to have been terminated. Her annual return to the "Tucker House" which she maintained as her only fixed home, her migratory existence in lodging-houses and hotels, alternating between New York City and Hoboken, New Jersey, and her fixed intention not to establish a true home in New York, constitute that aggregate of physical and mental facts which determined her domicile to be in Vermont at the time of her death.

B. L.

DOWER—METHOD OF ASSIGNMENT—MINERAL LAND.—SHUPE v. RAINEY (1917) 100 ATL. (PA.) 138.—The widow of the deceased was found to be dowable in certain mineral veins which the deceased had previously conveyed. The assignees contended that the court erred in allowing the widow one-third of the rents and profits of such vein rather than setting her dower apart by metes and bounds. *Held*, that where the value of a mineral vein is not uniform, the widow should be assigned one-third of the rents and profits.

Equity, in view of the disadvantages of a common-law proceeding, is generally availed of to afford complete relief in dower proceedings. Pomeroy, *Equity Jurisprudence*, sec. 1381. The rule that a widow is not dowable in mines not opened during the lifetime of her husband is general. *Staughton v. Leigh* (1814) 1 Taunt. 402; *Leufers v. Henke* (1874) 73 Ill. 405. It has been held, however, that where the lands are available for no other purpose, the widow is dowable in unopened mines. *Seager v. McCabe* (1892) 92 Mich. 186. No question of waste is raised where the mine has already been operated. *Coates v. Cheever* (1823) 1 Cow. (N. Y.) 460. When the assignment of dower by metes and bounds presents a practical difficulty some other method is employed. A gross sum has been awarded the widow. *Howells et al. v. McGraw et al.* (1904)